

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MYLAN INC. and
MYLAN PHARMACEUTICALS INC.,

Plaintiffs,

v.

SMITHKLINE BEECHAM CORPORATION
(n/k/a GlaxoSmithKline LLC)
d/b/a GLAXOSMITHKLINE,
SMITHKLINE BEECHAM P.L.C. (n/k/a
SmithKline Beecham, Limited), and
SmithKline Beecham (Cork) Limited (successor
to SB PHARMCO PUERTO RICO, INC.),

Defendants.

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AT 8:30 _____ M
WILLIAM T. WALSH CLERK

Civil Action No. 10-04809 (JAP)(LHG)

Document Electronically Filed

STIPULATION AND ORDER REGARDING SUPPLEMENTAL DAMAGES

WHEREAS Plaintiffs Mylan Inc. and Mylan Pharmaceuticals Inc. (together, "Mylan") moved this Court on March 28, 2014, for an accounting from Defendants SmithKline Beecham Corp. (n/k/a GlaxoSmithKline LLC), SmithKline Beecham P.L.C. (n/k/a SmithKline Beecham, Limited), and SmithKline Beecham (Cork) Limited (together, "GSK") to account of their sales of Paroxetine CR to Apotex Inc. and Apotex Corp. (together, "Apotex") beginning October 1, 2013, and of Apotex's sales of AG Paxil CR® beginning April 1, 2014, through the date of the order awarding Mylan's motion (D.E. 384);

WHEREAS the Court granted Mylan's motion for an accounting in an order ruling on multiple motions on July 16, 2014 (the "July 16, 2014 Order") (D.E. 407, D.E. 408);

WHEREAS GSK produced documents to Mylan pursuant to the Court's July 16, 2014 Order;

WHEREAS GSK filed a timely appeal (*see* D.E. 414) from, *inter alia*, the original Judgment (D.E. 389) in this Action and the July 16, 2014 Order, which appeal remains pending in the United States Court of Appeals for the Third Circuit (Appeal No. 14-3646);

WHEREAS Mylan moved this Court on December 23, 2014, for an order granting supplemental damages pursuant to the Court's July 16, 2014 Order (D.E. 421); and

WHEREAS GSK disputes Mylan's right to any recovery or damages in this Action, denies any and all liability, denies that Mylan is entitled to an accounting, and believes Mylan would not be entitled to any recovery or damages, including any supplemental damages, if the original Judgment and the July 16, 2014 Order are ultimately not upheld, but GSK is willing to enter into this Stipulation and Order because in the event the original Judgment and the July 16, 2014 Order are ultimately upheld, then Mylan would be entitled to the supplemental damages it seeks in its December 23, 2014 motion (D.E. 421);

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, and ORDERED by the Court that:

1. Mylan's request for supplemental damages in the amount of \$13,681,359 is **granted**; and
2. The Judgment herein shall be amended to include supplemental damages in the amount of \$13,681,359, for a total judgment of **\$120,629,228**, which includes the original Judgment of \$106,700,000 (D.E. 389), prejudgment interest in the amount of \$247,869 (D.E. 419), and the supplemental damages that are the subject of this Stipulation and Order;
3. Nothing in this Stipulation and Order should in any way be construed as an admission or concession by GSK that GSK is in any way liable, that Mylan is

entitled to any recovery or damages in this Action, that Mylan is entitled to an accounting, or that Mylan is entitled to any additional damages sought; and

4. This Stipulation and Order shall not waive, limit or in any way affect GSK's rights to pursue its pending appeal (*see* D.E. 414) from the Judgment, the July 16, 2014 Order, this Stipulation and Order, or any other judgments, orders, rulings, findings, or opinions in this Action, and GSK's rights to pursue the pending appeal and to appeal any judgments, orders, rulings, findings, or opinions in this Action are expressly reserved.
5. Neither this Stipulation and Order nor any other filings made in this Court since GSK filed its August 15, 2014 Notice of Appeal (D.E. 414) require GSK to file a new notice of appeal to maintain the appeal currently pending before the United States Court of Appeals for the Third Circuit. The July 16, 2014 Order granting Mylan's motion for an accounting is before the Third Circuit in Appeal No. 14-3646 by virtue of GSK's notice of appeal. This order sets the amount of that accounting without prejudice to GSK's ability to challenge Mylan's entitlement *vel non* to an accounting in the currently pending appeal.

Dated: January 21, 2015

/s/ Wade G. Perrin

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Dated: January 21, 2015


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Beecham P.L.C. (n/k/a SmithKline Beecham,
Limited), and SmithKline Beecham (Cork)
Limited*

SO ORDERED, this 22 day of Jan, 2015,



The Honorable Joel A. Pisano
United States District Judge